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ABSTRACT

In November 1970, the University of Pittsburgh submitted an affirmative action plan to the Department of Health, Education, and Welfare. The plan was modified and expanded the following year and, with HEW urging, it became a model program adopted by many colleges. However, in the next several years the University of Pittsburgh learned, as many institutions have, that no matter how good the plans, the leadership, and the implementation strategies, social justice is difficult to achieve. The question arises as to whether or not any set of plans or programs is adequate in attempting to meet the letter and spirit of Title VII of the Civil Rights Act of 1964. The discussion presented is of an actual institution, the University of Pittsburgh, attempting to meet its commitments within a framework of the law, its moral obligations, and institutional constraints. (Author)

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**"As the university formulated its affirmative action plan it was, in essence, preparing a case against itself."**

# EQUAL EMPLOYMENT OPPORTUNITY ON CAMPUS: A CASE STUDY OF THE UNIVERSITY OF PITTSBURGH

By Edward J. Blakely

In November 1970, the University of Pittsburgh submitted an affirmative action plan to the Department of Health, Education and Welfare. The plan was modified and expanded the following year and, with HEW urging, it became a model program adopted by many other colleges. However, in the next several years the University of Pittsburgh learned, as many institutions have, that no matter how good the plans, the leadership and the implementation strategies, social justice is difficult to achieve. The question arises as to whether or not any set of plans or programs is adequate in attempting to meet the letter and spirit of Title VII of the Civil Rights Act of 1964.

This case history may or may not provide the reader with any "answers." The discussion here is of an actual institution attempting to meet its commitments within the framework of the law, its moral obligations and institutional constraints.

### *The Character of the University*

The University of Pittsburgh is a private state-related university in an urban setting. Although the city of Pittsburgh is the corporate headquarters for over thirty of the nation's leading industries, the university is the city's largest employer.

It is only natural that the university has evolved an urban mission, as it is very active in the myriad of social and environmental problems of the city. The university's leadership is very aware of and sensitive to its role in the community.

These factors provided a natural framework for the university, both consciously and sometimes without plan, to begin altering its faculty and staff composition as early as 1960. This process was accelerated with the advent of urban crisis in the mid-1960s. However, it was not until 1970 that the university officially developed a set of plans to alter the racial composition of its student body, staff and faculty to reflect the community it served. This recognition came about due to a more realistic appraisal of the times, and as a direct result of black confrontations with the university administration. University officials developed plans and programs, with the involvement of the black community, for increased black enrollment and faculty, combined with a stronger commitment of human resources to urban problem-solving. As these activities began, women's groups simultaneously pressed for greater employment equity in the institution. These problems were immediately compounded by dwindling state financial support for higher education and a concomitant loss of confidence among state voters.

### *The Urgency of the Planning Problem*

In the summer of 1970, while the administration was attempting to develop a mechanism to work more effectively with the black community, a show cause order was issued against the University by the Office of Contract Compliance, HEW. The order was inspired not by disgruntled blacks, but by campus women who were alleging sex discrimination in hiring, promotion and working conditions. The situation posed an interesting and complex dilemma. How could the institution move forward with plans for both race and sex equality with limited resources? The show cause order made it imperative that this question be resolved quickly, since HEW threatened to cancel contracts of nearly fifty million dollars annually.

The obvious, most expedient answer to both HEW and the university administration was to design a program to

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eliminate all forms of discrimination. This strategy was easier to conceive than to design or implement.

Although people at the university were relatively aware of racism and its various manifestations, few individuals, male or female, were as well informed on sexism. Furthermore, gathering statistics and monitoring progress on racial and sex issues were very complex for an institution as large as the University of Pittsburgh. For instance, the university had no central personnel records system that identified people either by race or by sex. To complicate matters further, hiring, promoting, disciplining and firing faculty and staff were not centrally administered or controlled. Unfortunately, there had been no attempt to fully develop or implement a system of classifying non-faculty personnel with centralized salary schedules until 1968. As a result, analyzing the work force to determine equity was an enormous task. The deficiencies in black employment were relatively simple. There were few, "so hire more and promote them!" Other racial minorities represented such a small fraction of the local population that HEW tentatively agreed to accept a plan that stressed women and blacks based on their availability.

### *Conflict Between Immediate Pressures and the Need for Data*

In July 1970, Chancellor Wesley Posvar formed the Advisory Council on Women's Opportunities (ACWO) to take the responsibility to "conduct a study of women's educational and career opportunities. . . ." This study was to form the basis for a broad range of administrative decisions related to women. While ACWO was studying the problems, the affirmative action plan was being formulated. This may appear to be inconsistent, but the university was faced with a deadline from HEW to submit an affirmative action plan or face a loss of funds. In a sense, HEW was requiring the university to address itself to a problem not fully described and for which no reliable data was available to insure the validity of the completed plan.

The university had no idea where to begin and HEW provided very little assistance. The rules called for an analysis of the work force. In order to do this the university hired a small army of part-time clerks to go through every available personnel record with the mission of computerizing all employment data. This data included information on every employee with respect to race, sex, date of employment, salary, and so on. Each personnel folder was filed centrally and cross-checked against departmental records. Simultaneously, a number of surveys were initiated to collect data on promotions, training opportunities, and attitudes. So much data was collected to meet HEW demands that it was impossible to transport or analyze. Even the summary computer runs required a systems analyst for proper interpretation. The data was sent to HEW in boxes too large to go through the mail.

After all the preliminary data was in, it showed exactly what the university officials stated before the exercise began. Black males and females were under-represented, but white females were the majority at all staff levels including the supervisory level. However, white females were a smaller proportion of the faculty, but even in this case a slightly larger proportion than at comparable institutions.

### *Setting Goals and Timetables*

Setting goals and timetables was an interesting exercise in the absence of any accurate data or specific guidance. The university requested from HEW (and never received) guidance on how to set its goals and establish appropriate time frames. As a consequence, the university made some reasonable assumptions. The faculty is recruited nationwide, so national availability tempered with local data and community availability would serve as a good baseline. Clearly these goals could not be uniform for every school and department since academic fields differ greatly. In addition, some departments, as a result of fund reductions or student demands, had few or no foreseeable positions. Goals were set for staff employees by analyzing the size of the minority and female populations in the city and county based on the latest Department of Labor figures. Again, each area of the university was given a different goal depending on whether it was an academic or a service unit. Finally, timetables were made for five-year or longer intervals with annual steps. The administration reasoned that the timetables meant annual progress toward employment goals rather than static or rigid requirements.

All of this goal-setting and planning was based on an oversimplified human power planning model that failed to consider any shifts in size of the student body or reduced funding. HEW officials seemed unable to comprehend the notion of a variable labor force based on fluctuating grants and contracts or student population. At times, it seemed difficult for the HEW field staff to understand the nature and mission of a higher education institution. University officials were equally baffled by the complexities of equal employment opportunity and its legal implications. In the next several months, as relationships developed, both HEW and the University of Pittsburgh grew to appreciate each other's problems and priorities.

As the university formulated its affirmative action plan it was, in essence, preparing a case against itself. The plan was comprehensive, including an extensive set of recommendations to change policies, procedures and controls in an effort to curb both racism and sexism in education and employment. As the plan was announced, a female faculty member whose contract was not renewed filed suit against the university under the Civil Rights Acts of 1964 and 1866. Of course, the university's own description of the problem became a near admission of culpability not only

for the female plaintiff but for all other persons similarly situated. In a sense, the more the university analyzed itself and attempted to rectify inequities, the more it became a target for wider legal actions. Clearly not all of the problems could be addressed at once or resolved instantly. It became apparent to the university community, however, that affirmative action required immediate rather than long-range solutions.

### *Organizing for Affirmative Action*

The chancellor appointed a new assistant in August 1971 with the principal responsibility of implementing the university-wide affirmative action plan. Placing affirmative action responsibilities in the chancellor's office gave the program increased visibility and authority. At the same time, the chancellor authorized the university personnel division to centrally administer all staff personnel activities. The provost, the chief academic officer, took similar responsibilities regarding faculty personnel matters. By taking these three steps, the university put into operation an initial mechanism to provide greater control over faculty and staff employment.

Throughout the academic year 1971-72 the provost, the director of personnel and the assistant to the chancellor worked together to implement the plan. Sweeping changes, well beyond the provisions of the affirmative action program, were implemented. The entire processes for recruiting, hiring, dismissal, benefits and salary administration, as well as governance, were reviewed and modified. The result was a four percent change in the race/sex composition of the faculty in a single year. The staff alterations were even more dramatic, not only in increased numbers but in distribution among the various employment categories. Although the affirmative action plan was centrally organized and directed, every school and department was required to participate. Department chairpersons were required to develop affirmative action plans with specific implementation strategies. In addition, each of the seventeen deans was required to assign a primary staff officer as affirmative action officer for his or her school and to serve with an elected affirmative action committee to ensure race and sex equity in the administration of institution-wide policies and procedures. The process was enormously cumbersome and complex, but it was effective. While many institutions of comparable size were appointing one or two blacks a year, the University of Pittsburgh was interviewing that many black applicants per week. The major recruitment vehicle was word of mouth combined with heavy soliciting among black and female caucuses in the professional associations.

The affirmative action committees in the various schools were instructed not only to recruit women and minority group members but to sensitize their fellow faculty and staff members to racism and sexism. The small staff of the affirmative action program in the chancellor's office discovered that it was totally infeasible to even attempt to record all of the various departmental programs related to race and/or sex. As a consequence, the central affirmative action staff became increasingly involved in conflict resolution and technical assistance for the various schools and departments. However, either because of or in spite of these activities, the volume of internal and external complaints grew.

In late 1971, the university found itself, like most universities, reducing its staff as a result of reduced funding. No faculty members were involved in this layoff. In fact, only certain craftsmen covered under collective bargaining agreements were involved. The usual practice was to layoff on the basis of seniority. However, had the university taken such a course of action, minority workers would have been most drastically affected. There was the clear possibility that the entire affirmative action effort could have been erased if the earlier agreements were invoked. As a consequence, the university refused to lay off minority craftsmen below the levels committed in the affirmative action plan. Although the union members threatened strikes and walkouts, their business agents conceded the legitimacy of the action. However, the matter did not end there.

### *The Proliferation of Discrimination Suits*

Those who were laid off went to the EEOC and State Human Relations Agency and lodged complaints that they were terminated solely on the basis of their race. Within one month, five additional charges were filed with the EEOC or state agencies alleging race or sex discrimination in hiring or promotion. In each case, the person involved was white and claimed to have been discriminated against either because he or she was not hired or because a black male or a female was selected. In at least one case, a female claimed sex discrimination in a field where over ninety percent of the incumbents were females and a female chose a female for the position.

EEOC and state officials were intelligent in their approaches to these problems, but in every case they asked for an inordinate amount of information. In one case, a state investigator asked the university for *all* of its publications. After some discussion, this was limited to promotional literature or brochures. EEOC investigators treated each case as a class action and frequently discovered the data for any given group of employees greater than any single person could interpret or analyze. The EEOC maintained an office on campus for eight months to conduct an investigation of only four cases, two of which the personnel office had resolved before the investigation.

The summer of 1972 was a critical period for the university. In that four-month interval between school terms, several separate suits were instituted by women under

Title VII. Three of the cases involved failure to hire or renew contracts, and one concerned the state practice of assigning tuition on the basis of a husband's residence. In the latter case, the university protested that it was simply the collector of fees imposed by the state regulations and not the formulator of the rules. In the former cases, the university contended that it was not a state agency as defined under the various civil rights statutes. As an employer, the state is not involved to any degree in the university. The state merely supplements student tuition at the University of Pittsburgh as the federal government does through national loan or grant programs. Furthermore, the university feels it can argue the individual cases on their merits.

### *Impact on Internal Governance*

Regardless of the validity of any of these allegations, each of these cases significantly detracted from the staff time required to implement an affirmative action plan. Some of the interrogations absorbed months of staff time in preparation for a single case. In several cases, the university's own data was introduced in court as illustrative and supportive of the plaintiffs' contentions.

By the spring of 1973, the university had experienced over one hundred suits, investigations and internal grievances related to sex or race discrimination. The vast majority of the complaints were internal and informal reflecting the rapid change in the composition of the work force. The distinctions between race and sex problems as opposed to employee personnel difficulties remained. For example, several changes were made in the senior administrative staff of the university by the chancellor, vice chancellors and deans. When blacks were elevated to positions of authority there were few comments. Conversely, some blacks were removed or transferred which inspired some outcries of racism. Similarly, female appointments and terminations were scrutinized and investigated by the EEOC in almost every case. The question of *fairness* entered into each of these cases. Clearly, someone within the university had to decide the questions quickly and responsibly.

The University of Pittsburgh, like all universities, is governed by traditional academic principles. The departments and schools have strong recommending power with ultimate decision-making authority in the hands of the chancellor and trustees. When any academic or nonacademic official interferes with the traditional prerogatives of the departments and schools, the results can be disastrous. As a result, the university's administration moved slowly and carefully to develop new sets of policies and procedures to guarantee equal opportunity at the lowest organizational levels. Several sets of activities were put in motion to assist the total institution in becoming responsive to its equal opportunity commitments. First, a thorough review of all grievance and appeal procedures was designed in line with Title VII requirements and HEW guidelines. The university and the EEOC agreed that any complaint procedure should be equitable for all employees. Similar procedures were designed for students, with a set of academic integrity standards established for the faculty. Tenure rules were strengthened for faculty, and a non-faculty evaluation system was introduced. To more effectively administer this system, the staff personnel office was integrated into the affirmative action office. The liaison between the provost and the affirmative action program was strengthened.

### *Program Plans and Future Uncertainties*

While the litigation and investigation continue, the university is attempting to move forward in assuring social justice. Among other recent actions the provost established a special Ph.D. fund for grants to minorities and females who intend to enter teaching. Faculty positions were nationally advertised and a computerized applicant search program was introduced. In addition, the university established a special disadvantaged contractor fund for women and minority businesses. In its first year, the fund assisted local minority business people in doing over $1 million worth of contracting with the university. These were among more than twenty major changes in policies and programs.

Plans are already well underway for further changes such as expanded child care services, revised employee handbooks, improved benefits, and new training programs. However, the university still questions whether or not its equal opportunity programs are good enough, fast enough, or realistic.

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